

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOE THORNBLAD,

Civil No. 09-1768 (JNE/SRN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Attorney General ROBIN CHRISTOPHER
VUE-BENSON, LANCE, LYNN HILL,
PAUL SCHUENEMAN, PETE SEXE,
RACHAEL HELLER, MIKE KNOWSKI,
MELONY WURTZBERER, KATHY
DRISKELL, and LARRY TEBRAKE,

Defendants.

Plaintiff commenced this action on July 10, 2009, by filing a self-styled complaint, and an application for leave to proceed in forma pauperis, (“IFP”). (Docket Nos. 1 and 2.) The Court previously examined Plaintiff’s submissions, and determined that his complaint failed to state an actionable claim for relief. Therefore, in an order dated July 31, 2009, (Docket No. 3), the Court informed Plaintiff that his IFP Application would “not be granted at this time.” That order gave Plaintiff an opportunity to file an amended complaint, and provided detailed directions for the construction of a new pleading. The order also expressly advised Plaintiff that if he did not file a proper new pleading by September 1, 2009, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for filing an amended complaint has now expired. To date, however, Plaintiff has not complied with the Court’s prior order, nor has he offered any excuse for his failure to do so. Plaintiff has submitted several anomalous documents to the Court,

(Docket Nos. 4, 5, 6 and 7), but none of those submissions purports to be, or could reasonably be construed as, an amended complaint that complies with the pleading requirements prescribed by the Court's prior order. Therefore, the Court will now recommend, in accordance with the prior order, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) ("[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order"); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 2), be **DENIED**;
and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: October 6, 2009

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 21, 2009** a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.